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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 DEUTSCHE BANK TRUST

12 Plaintiff,

13 vs.

14 JOHN OTTEN, ERLINDA A. OTTEN,

15 Defendants.

CASE NO. 08cv0906 JM(LSP)

ORDER REMANDING ACTION TO
STATE COURT

16 On May 21, 2008 Eric Glover, an individual not named in the state court action,
17 filed a Notice of Removal of an unlawful detainer action filed against Defendants John
18 C. Otten and Erlinda A. Otten in San Diego Superior Court. Plaintiff commenced the
19 unlawful detainer action to remove the Defendants from property owned by Plaintiff.

20 The court sua sponte remands this action to state court. See Maniar v. FDIC, 979
21 F.2d 782, 785 (9th Cir. 1992) (the court may sua sponte remand an action to state court).
22 Federal courts are courts of limited jurisdiction. “Without jurisdiction the court cannot
23 proceed at all in any cause. Jurisdiction is power to declare the law, and when it ceases
24 to exist, the only function remaining to the court is that of announcing the fact and
25 dismissing the cause.” Steel Co. v. Citizens for a Better Environment, 523 U.S. 83, 94
26 (1998) (quoting Ex parte McCardle, 74 U.S. (7 Wall.) 506, 514, 19 L.Ed. 264 (1868)).
27 Accordingly, federal courts are under a continuing duty to confirm their jurisdictional
28 power and are even “obliged to inquire sua sponte whenever a doubt arises as to [its]

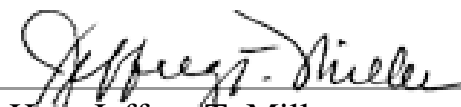
1 existence. . . .” Mt. Healthy City Sch. Dist. Bd. of Educ. v. Doyle, 429 U.S. 274, 278
2 (1977) (citations omitted).

3 The state court complaint alleges that Plaintiff purchased the property under a
4 power of sale provision contained in the deed of trust executed by Defendants John and
5 Erlinda Otten. (Compl. ¶4). The complaint specifically limits the amount of damages
6 to an amount not to exceed \$10,000. (Compl. at p.1). As the court has diversity
7 jurisdiction only over civil actions “where the matter in controversy exceeds the sum
8 or value of \$75,000,” 28 U.S.C. §1332(a), the court lacks subject matter jurisdiction to
9 entertain the underlying action.¹

10 In sum, the court sua sponte remands this action to the Superior Court for the
11 County of San Diego.

12 **IT IS SO ORDERED.**

13 DATED: May 27, 2008

14 
15 Hon. Jeffrey T. Miller
United States District Judge

16 cc: All parties
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28 ¹ The court notes that Eric Glover, the party seeking to assert federal jurisdiction, fails to cite any authority permitting a non-party to remove a state court action to federal court.